



ENTERED
11/08/2016

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	
DAVID GORDON WALLACE, JR.,	§	Case No. 15-31594
	§	
Debtor.	§	Chapter 7
	§	
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ZT WEALTH DEVELOPMENT, L.P.,	§	
	§	
Plaintiff	§	
	§	
v.	§	
	§	
DAVID GORDON WALLACE, JR.,	§	
ET AL.,	§	
	§	Adversary No. 15-03242
Defendant.	§	
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RODNEY TOW,	§	
CHAPTER 7 TRUSTEE,	§	
	§	
Plaintiff-Intervenor,	§	
	§	
v.	§	
	§	
ZT WEALTH DEVELOPMENT, L.P.,	§	
ET AL.,	§	
	§	
Defendants.	§	

ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT
[This Order Relates to Adv. Doc. No. 50]

On September 30, 2016, David G. Wallace, Jr., the defendant in the above-referenced adversary proceeding (the "Defendant"), filed a Motion for Summary Judgment (the "Motion"). [Adv. Doc. No. 50]. On October 31, 2016, ZT Wealth Development, L.P., the plaintiff (the

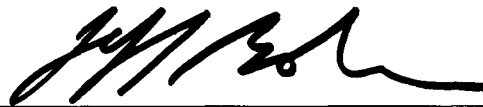
“Plaintiff”), filed a response opposing the Motion. [Adv. Doc. No. 64]. On November 3, 2016, this Court held a hearing to afford counsel for both parties the opportunity to make oral argument. At the close of the hearing, the Court took the matter under advisement.

On November 7, 2016, the Court held a hearing to announce its ruling on the record. For the reasons set forth on the record, the Court finds that the Motion should be denied. Thus, a trial will be held on both the § 523(a)(2)(A) claim and the § 523(a)(4) claim brought by the Plaintiff against the Defendant. However, as the Court stated on the record, in prosecuting its § 523(a)(2)(A) claim, the Plaintiff will not be allowed to recover on this claim by asserting that the Defendant failed to disclose that he was insolvent when obtaining the loan from the Plaintiff. As this Court stated on the record, insolvency constitutes the financial condition of the Defendant (i.e., the Debtor in the main case), and § 523(a)(2)(A) allows a plaintiff to obtain a judgment of non-dischargeability for “false pretenses, a false representation, or actual fraud, *other than a statement respecting the debtor’s . . . financial condition.*” (emphasis added). It is therefore:

ORDERED that the Motion is denied; and it is further

ORDERED that trial will be held as scheduled on December 7, 2016.

Signed on this 7th day of November, 2016.

A handwritten signature in black ink, appearing to read 'Jeff Bohm', written over a horizontal line.

Jeff Bohm
United States Bankruptcy Judge